

ST 01-0147-GIL 08/03/2001 REQUEST FOR INFORMATION

The Department has the authority to offset tax overpayments against outstanding tax liabilities. Please refer to 15 ILCS 405/10.05. (This is a GIL).

August 3, 2001

Dear Xxxxx:

This letter is in response to your letter dated July 20, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at the Department's Website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

Your letter was prompted by a Notice of Proposed Offset that the Illinois Department of Revenue sent you after you filed your 2000 IL-1040 showing an overpayment. The Notice of Proposed Offset stated that the overpayment would be offset against assessment liabilities that the Department maintains are due from you for the business that you operated known as BUSINESS. Your letter questioned these liabilities and also referenced payments you state were made on this account.

Please be informed the Department does have the right to offset tax overpayments against outstanding tax liabilities. Please refer to 15 ILCS 405/10.05. Section 10.05 authorizes the State Comptroller to reduce a refund warrant pursuant to notification by an amount due and payable to the State. The right of the Department to use the offset collection remedy has been upheld by Illinois courts when a debt's statute of limitations has run for the purpose of bringing legal action for recovery. See LaPine Scientific Company v. Lenckos, 95 Ill. App. 3d 955 (1981).

You appended copies of certain materials to your letter and these included references to correspondence indicating you had incorporated your business. Please be advised that these materials contain no evidence that you provided notice to the Department prior to issuance of the assessments that the business was a corporation. Prior to the assessments, the Department's records indicated only that the business was a sole proprietor operated by you. Case law supports the Department's position that it is justified in relying upon information provided to it by taxpayers, and, in absence of notice to the contrary, may mail notices to taxpayers based upon that information. If a taxpayer fails to provide information related to changes of ownership or addresses, she cannot subsequently complain that the Department of Revenue failed to use it. Pape v. Department of Revenue, 40 Ill. 2d 442, 452 (1968).

Enclosed is an up-to-date (through 7/30/01) statement of the outstanding liabilities for your business, broken down by periods, tax, penalty, interest, and payments applied. The outstanding liability amounts are shown in the right hand column.

Although the Legal Services Office has answered your legal questions, we cannot trace each individual payment that was made on this account. For further information regarding the status of your account you can contact PERSON of the Department's Collection Bureau at the address and number cited at the bottom of the enclosed statement. We are referring your correspondence to that office.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us.

Very truly yours,

Karl W. Betz
Associate Counsel

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